

REMARKS

In response to the Office Action, the Applicant offers the following remarks.

I. Status of the Claims.

Claims 1-6, and 8-19 are currently pending in the subject application and are presently under consideration.

Claims 5-6 have been rejoined by the Examiner.

Claims 20-25 have been previously withdrawn without prejudice or disclaimer.

Claim 1 is currently amended to better define the claimed invention. More particularly, aspects recited in former claim 7 (now cancelled) have been incorporated into claim 1.

By this Amendment, no new matter has been added to the application, and applicants' amendment does not necessitate a new search by the Examiner, as the language in the amendments have already been considered by the Examiner. Therefore, applicants' representative respectfully submits that any subsequent action by the Examiner should be accorded the status of non-final.

II. Response to Double Patenting Rejection

It is noted that Claims 1-19 are provisionally rejected on the ground of non-statutory obviousness-type double patenting over the claims of co-pending U.S. Patent Application No. 20050079604 and/or US 20050170501. Inasmuch as these applications have not yet been patented, it is unnecessary for Applicants to address this rejection at this time. If and when the applications issue as patents, any rejection thereon on the basis of obviousness-type double patenting that is not provisional, will be addressed.

III. Response to Obviousness Rejection under 35 U.S.C. 103(a)

Claims 1-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (US 20020172705), Murphy et al. (US 20080108134) and Binette et al. (US 20040078090). The rejection should be withdrawn for at least the following reasons.

In response to the Examiner's rejection, claim 1 has been amended to introduce therein the subject matter formerly in claim 7 so as to clarify the subject matter being claimed. Applicants submit that the subject matter of amended claim 1 is not rendered obvious by the references relied upon by the Examiner.

Without limiting the generality of the foregoing, Applicants submit that the cited references, either alone or in combination, do not teach or suggest all aspects of the subject claims.

Murphy et al. (US 20020172705) relates to cultured tissue constructs comprising cultured cells and endogenously produced extracellular matrix components without the requirement of exogenous matrix components or network support or scaffold members. As the Examiner asserts in the Office Action, Murphy et al. does teach two layers, wherein one sheet is layered over a second sheet, and the weight of the first sheet would be normally capable of pressing over the under layer to adhere to each other over time. However, the reference is not directed towards applying a compressive force in a direction normal to the surface of the multi-layer stack of living tissue with a force-applying means at a pressure and for an amount of time sufficient to compress layers of tissue together for inducing adjacent layers of tissue to fuse or adhere to each other, wherein said force-applying means in step (b) comprises a weighted device suitable for applying substantially evenly-distributed pressure to said multi-layer stack of living tissue, said weighted device being at least partially permeable to tissue-culture medium, as recited in amended independent claim 1.

Similarly, Murphy et al. (US 20080108134) relates to the production of tissue constructs via stimulation of cells in culture to produce extracellular matrix in a defined medium system. However, Murphy et al. is not directed to the aspects recited in amended independent claim 1, as discussed above.

Binette et al. relates to producing biocompatible tissue implants for use in treating tissue. While Binette et al. discloses adhering a tissue fragment from a biopsy to a scaffolding material utilizing an anchor agent, the reference does not disclose applying an external compressive force that is normal to the surface of the tissue fragment-scaffolding material construct. As a consequence, Binette et al. does not teach or suggest *applying a compressive force in a direction normal to the surface of the multi-layer stack of living tissue with a force-applying means at a pressure and for an amount of time sufficient to compress layers of tissue together for inducing adjacent layers of tissue to fuse or adhere to each other, wherein said force-applying means in step (b) comprises a weighted device suitable for applying substantially evenly-distributed pressure to said multi-layer stack of living tissue, said weighted device being at least partially permeable to tissue-culture medium*, as in the claimed invention.

In view of at least the foregoing, it is readily apparent that the cited references, either alone or in combination, do not teach or suggest all aspects recited in independent claim 1. Claims 2-19 depend directly or indirectly from claim 1 and as such incorporate by reference all its limitations. As such, from the same reason as those set forth with respect to claim 1, Applicants submit that the subject matter of claim 2-19 is neither taught nor suggested by the cited references, either alone or in combination.

Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

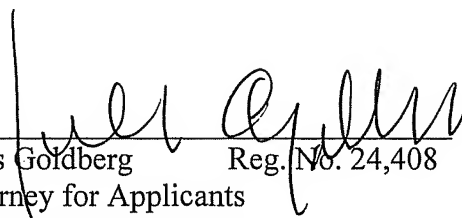
A petition for an extension of time and the required fee to extend the time to reply to the May 21, 2008 Office Action is concurrently filed herewith. In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 04-1679.

In view of the above, reconsideration of the Examiner's rejections and allowance of pending claims 1 to 6 and 8 to 19 are earnestly solicited. A prompt action to such end is earnestly solicited. Applicants look forward to receiving the Notice of Allowance.

The Examiner is invited to call Applicants' undersigned representative if any further amendment will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the present response. If the claims of the application are not believed to be in full condition for allowance, for any reason, Applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

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Respectfully submitted,



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